

Notice of Opportunity to Join Unpaid Wage Lawsuit

A Federal Court authorized this Notice. It is not a solicitation from a lawyer.

SHELL v. PIE KINGZ, LLC, et al., Case No. 1:19-cv-02043
United States District Court for the Northern District of Ohio

To: All delivery drivers who work or worked at any Jet's Pizza locations¹ owned and operated by PIE KINGZ, LLC, PIEKINGZII, INC., PIE KINGZ 3, INC., AND PIEKINGZ 4, INC. from September 5, 2016 to present.

A lawsuit may affect your rights. Please read this notice to learn about the lawsuit, how your rights may be affected, and what your options are.

1. Introduction

This Notice is to inform you about the existence of a collective action lawsuit which you may join, to advise you of how your rights may be affected by this lawsuit, to inform you how to participate, and to explain your obligations if you choose to participate. Defendants' records indicate you are eligible to join this lawsuit.

Plaintiff Jason Shell filed a lawsuit on behalf of himself and other delivery drivers at Jet's Pizza locations owned and operated by PIE KINGZ, LLC, PIEKINGZII, INC., PIE KINGZ 3, INC., AND PIEKINGZ 4, INC. In summary, Plaintiff asserts the delivery drivers: (1) have been under-reimbursed for their delivery-related expenses; (2) have been required to perform non-tipped work inside the restaurant at a tipped wage rate; and (3) were not properly informed of the tip credit requirements under the FLSA.

On behalf of his fellow drivers, Plaintiff seeks the following damages:

- reimbursement at the IRS standard business mileage rate (currently \$0.58 per mile) for each mile driven while completing deliveries;
- full minimum wage for all hours worked until the date delivery drivers were properly notified of the tip credit requirements of the FLSA; and
- liquidated damages under the FLSA in the amount of 1× unpaid wages, additional damages under Ohio law, and attorneys' fees and costs.

If you have questions about your eligibility after reading this notice, please contact Plaintiff's Counsel, whose contact information is provided below.

¹ These stores are located at: 7554 Pearl Road (Middleburg Heights), 5344 Pearl Road (Parma), 7878 Broadview Road (Parma), and 25947 Detroit Road (Westlake).

2. What are my options?

It is your decision whether to join this lawsuit. You have the following options:

Action You Can Take	Become part of the case?	Details
Ask to be included by completing the Consent Form attached as the last page of this Notice.	Yes	If you submit an opt-in form (included with this Notice) by [90 days from notice being sent] , then you become part of the case. If the workers later receive money or other benefits in the lawsuit, you keep the possibility of being eligible for those awards under federal law. But, you give up any rights to sue these Jet's Pizza stores separately for the same federal law claims in this lawsuit. You will be bound by any judgments or decisions in the case. You agree to allow the named Plaintiff to make decisions on your behalf.
Do nothing.	No	If you do nothing, you will remain out of the lawsuit. If the workers later receive money or other benefits from federal law claims in the lawsuit, you will not be eligible for any of those . You will keep your rights to sue the Jet's Pizza stores separately for the federal claims in this lawsuit. You will not be bound by any judgments or decisions in the case that deal with the federal law claims.

If you have questions about the case, you may call Plaintiffs' attorneys Stuart Torch or Christina Royer at 216-382-2500.

3. How do I join the Lawsuit?

To join the Lawsuit, you must complete, sign, and deliver the Consent Form to Plaintiffs' Attorneys in one of the following ways by **[ninety days from date notice is sent]**.

You must deliver your Consent Form to Class Counsel in any one of the following four ways:

- a. U.S Mail | Mail it in the enclosed pre-stamped envelope or your own envelope to:

Biller & Kimble, LLC
3825 Edwards Ave., Suite 650
Cincinnati, OH 45209

- b. Website Submission | Complete the consent form online at docusign.com/ **[redacted]**

- c. Email | Scan it and email it to akimble@billerkimble.com, or

d. Fax | Fax it to (614) 340-4620.

If your consent form is not postmarked/delivered by [ninety days from date notice is sent], you may be prohibited from participating in this lawsuit. If you do not promptly join this lawsuit, some or all of your claims may expire because of the statute of limitations.

4. Can my employer fire me or retaliate against me if I join the Lawsuit?

The law strictly forbids any employer from retaliating against you for participating in the Lawsuit or filing a Consent Form. Retaliation is illegal, and you are entitled to additional money should a court determine that the Jet's Pizza stores took any action against you or treated you differently because you joined this lawsuit. If you experience any retaliation, you should report it immediately to Plaintiffs' Attorneys (identified below) or another attorney of your choice.

5. The Attorneys Involved

Plaintiff and any Class Member who completes the form below will be represented by Biller & Kimble, LLC and Elfvin, Klingshirn, Royer & Torch, LLC. They are experienced in similar cases against other employers. The U.S. District Court appointed the firms to represent the other delivery drivers in this action.

Plaintiff's Attorneys have a contingency fee agreement with Plaintiff, meaning they will only get paid if Plaintiff and/or other drivers are awarded money or other benefits. The contingency fee agreement entitles the attorneys to a 1/3 contingency fee on any amount awarded. As such, if the drivers are awarded money or benefits, then the attorneys will ask the Court to award fees and expenses to them. The fees and expenses will either be deducted from money obtained for the drivers or paid separately by the defendants.

You can contact the Plaintiffs' Attorneys for free to obtain more information at:

Andrew Kimble
513-715-8711
akimble@billerkimble.com

Andrew Biller
614-604-8759
abiller@billerkimble.com

Phil Krzeski
513-715-8712
pkrzeski@billerkimble.com

Stuart Torch
216-382-2500
stuart@ekrtlaw.com

Christina Royer
216-382-2500
chris@ekrtlaw.com

You also have the right to obtain your own counsel and file an individual lawsuit. **You should not contact the Court to ask questions about the case.**

6. No opinion expressed as to merits of lawsuit.

This notice is for the sole purpose of providing delivery drivers with the information concerning their right to join this lawsuit. Although this notice and its contents have been authorized by the Court, the Court takes no position regarding the merits of Plaintiff's claims or the Jet's Pizza stores' defenses.

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

JASON SHELL, *et al.*,

*On behalf of himself and those similarly
situated,*

Plaintiff,

v.

PIE KINGZ, LLC, *et al.*,

Defendants.

Case No. 1:19-cv-02043

Judge Donald C. Nugent

Magistrate Judge Jonathan D. Greenberg

Consent to Join Action

I hereby consent to opt in to this action to recover unpaid compensation, additional damages, attorneys' fees, and costs under the Fair Labor Standards Act, and be represented by Biller & Kimble, LLC, and Elfvin, Klingshirn, Royer & Torch, LLC, for purposes of bringing such action.

If I am not a named plaintiff myself, then I authorize the named plaintiff(s) to file and prosecute the above referenced matter in my name and on my behalf, and designate the named plaintiff(s) to make decisions on my behalf concerning the litigation, including negotiating a resolution of my claims, and I understand that I will be bound by such decisions. In the event I am not permitted to go forward with this action (for example, if this action gets conditionally certified and then decertified), I authorize plaintiff's counsel to reuse this Consent Form to re-file my claims in a separate or related action against Defendants.

Signature

Date

Printed Name

Telephone Number

E-mail

Address (only if different from the address
where notice was sent)